

Application Serial No. 09/900,927

REMARKS

This Reply and Amendment is intended to be completely responsive to the final Office Action dated April 9, 2003.

Status of Claims

The Applicants thank the Examiner for the Detailed Office Action dated April 9, 2003.

Claims 21-23, 26, 28-29, 31-32, 34-37, 39 and 67-102 are pending in this Application.

Claims 24, 25, 27, 30, 33, 38 and 40 have previously been cancelled (without prejudice). Claims 41-66 are withdrawn from consideration. Claims 21 and 84-102 stand rejected. Claims 22-23, 26, 28-29, 31-32, 34-37, 39 and 68-83 are objected to.

Upon entry of this Amendment, independent Claims 21, 67, and 86 and dependent Claims 74, 76, 84-85, 92, 98 and 102 will be amended; all pending claims will recite (in combination with other limitations) a "batting consisting of cotton or polyester or cotton-polyester [blend]."

Claim Objections

In Section 5 of the Office Action, the Examiner objected to Claim 85 under 37 C.F.R. § 1.75(c) as being of improper form for failing to further limit the subject matter of a previous claim. The Examiner suggested "to delete the term 'essentially.'"

The Applicants have amended Claim 85 to delete the term "essentially," as suggested by the Examiner.

The Applicants believe that Claim 85 (as amended) has overcome the rejection under 37 C.F.R. § 1.75(c) and is in condition for allowance.

Application Serial No. 09/900,927

Claim Rejections - 35 U.S.C. § 112 ¶ 2

In Sections 6-11 of the Office Action, the Examiner rejected Claims 21, 67, 84, 86 and 102 under 35 U.S.C. § 112 ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

Claims 21, 67 and 86

In Section 8, regarding independent Claims 21, 67 and 86, the Examiner stated that it is unclear "how the adhesive is provided with the batting ... [s]pecifically, is the adhesive applied over the surface of the batting or within the batting?" The Examiner suggested "that the Applicant specify where and how the adhesive is provided with the batting."

The Applicants have amended independent Claim 21 to recite a "batting ... having an adhesive applied throughout."

The Applicants have amended independent Claim 67 to recite a "batting ... having an adhesive applied to provide an interface on at least one of the opposing faces."

The Applicants have rewritten independent Claim 86 to recite a "batting ... having an adhesive on each of the opposing faces."

The amendments of independent Claims 21, 67 and 86 are intended to clarify that the adhesive can be "applied throughout" (Claim 21) or "applied to provide an interface" (Claim 67) or present on "opposing faces" of the batting (Claim 86).¹ The claims are intended to cover arrangements where the adhesive may be "within" the batting, so long as the "interface" and/or "adhesive connection" to at least one cover can be established.

¹ Support for the claim amendments is found in the original Specification, for example, on page 1, line 31 to page 2, line 1, page 3, lines 17-22, and page 4, line 23 to page 5, line 11.

Application Serial No. 09/900,927

Claim 86

In Section 9, regarding independent Claim 86, the Examiner stated that "it is unclear to the Examiner the difference between 'loft' and batting"

Independent Claim 86 (as amended) has been rewritten and no longer recites a "loft." Rewritten Claim 86 (as amended) is based substantially on independent Claim 21 and now recites a "batting."

Claim 84

In Section 10, regarding Claim 84, the Examiner stated that "the phrase 'such as' ... renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention." The Examiner suggested that the phrase be deleted.

The Applicants have amended dependent Claim 84 to delete the phrase "such as yarn or thread" as suggested by the Examiner.

Claim 102

In Section 11, regarding dependent Claim 102, the Examiner stated that "the term 'low-loft' is a relative term" and "is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree."

The Applicants have amended dependent Claim 102 to remove the term "low-loft." Dependent Claim 102 (as amended) now recites that the cotton or polyester or cotton-polyester of the batting is "needle punched."²

² Dependent Claims 74 and 87 have also been amended to recite that the cotton or polyester or cotton-polyester of the batting is "needle punched." Support for the amendment to dependent Claims 74, 87 and 102 is found in the original Specification on page 5, line 18.

Application Serial No. 09/900,927

Summary

The Applicants believe that independent Claims 21, 67 and 86 (as amended) and dependent Claims 84 and 102 (as amended) have overcome the rejections under 35 U.S.C. § 112 ¶ 2 and are in condition for allowance.

Claim Rejections - 35 U.S.C. § 112 ¶ 1

In Sections 12-13 of the Office Action, the Examiner rejected Claims 86-102 under 35 U.S.C. § 112 ¶ 1. The Examiner stated "the specification does not teach a batting comprising a 'loft' as presently claimed ... [t]he specification merely teaches batting can be classified according to the amount of 'loft' present."

The Applicants have rewritten independent Claim 86 to recite a "batting" and to remove the term "loft." Dependent Claims 92 and 98 have also been amended for conformity to Claim 86 (as amended).

The Applicants believe that independent Claim 86 (as amended) and dependent Claims 87-102 have overcome the rejections under 35 U.S.C. § 112 ¶ 1 and are in condition for allowance.³

Claim Rejections - 35 U.S.C. § 102

In Sections 14-15 of the Office Action, the Examiner rejected Claims 86, 89, 91-93, 95-96 and 98 as being anticipated by U.S. Patent No. 3,278,954 issued to Barhite under 35 U.S.C. § 102(b). The Examiner stated "the Applicants use of the term 'comprising' does not preclude Barhite from being relied upon as a reference."

Rewritten independent Claim 86 (as amended) is based substantially on independent Claim 21. Independent Claim 86 (as amended) now recites the "batting consisting of cotton or polyester or cotton-polyester" (and not a "loft").

³ Dependent Claim 102 has been amended to depend from independent Claim 21 (as amended).

Application Serial No. 09/900,927

The Applicants believe that independent Claim 86 (as amended) and dependent Claims 89, 91-93, 95-96 and 98 have overcome the rejections under 35 U.S.C. § 102(b) and are in condition for allowance.

Allowable Subject Matter

In Section 16 of the Office Action the Examiner stated "Claims 21 and 67 would be allowable is rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph." The Applicants have amended independent Claims 21 and 67 to address the rejections under 35 U.S.C. § 112 ¶ 2 and respectfully request allowance of independent Claims 21 and 67.

In Section 17 of the Office Action the Examiner stated "Claims 84 and 85 would be allowable is rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph." The Applicants have amended dependent Claims 84 and 85 to address the rejections under 35 U.S.C. § 112 ¶ 2 and respectfully request allowance of dependent Claims 84 and 85.

In Section 18 of the Office Action the Examiner stated "Claims 22, 23, 26, 28, 29, 31, 32, 34-37, 39 and 68-83 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." The Applicants have amended independent Claims 21 and 67 to address the rejection of the base claims and respectfully request allowance of dependent Claims 22, 23, 26, 28, 29, 31, 32, 34-37, 39 and 68-83.

* * *

Application Serial No. 09/900,927

The Applicants believe that each outstanding objection and rejection to the pending claims has been overcome, and the Application is in condition for allowance.

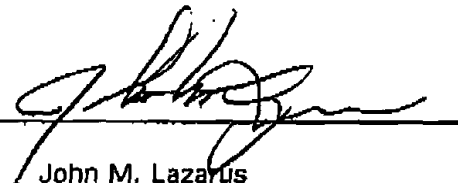
Independent Claims 21, 67, and 86 have been amended and dependent Claims 74, 76, 84-85, 92, 98 and 102 have been amended.⁴ Claims 21-23, 26, 28-29, 31-32, 34-37, 39 and 67-102 are pending and are each believed to be allowable. The Applicants request entry of this Amendment, and reconsideration and allowance of all pending Claims 21-23, 26, 28-29, 31-32, 34-37, 39 and 67-102.

The Examiner is invited to telephone the undersigned if such would advance the prosecution of the Application.

Respectfully submitted,

Date April 23, 2003

By



John M. Lazarus
Attorney for Applicants
Registration No. 48,367

FOLEY & LARDNER
Customer Number: 26371



26371

PATENT TRADEMARK OFFICE

Telephone: (414) 297-5591
Facsimile: (414) 297-4900

APR 24 2003

⁴ None of the amendments to the dependent claims is intended to narrow the scope of any base independent or intervening dependent claim. See 35 U.S.C. § 112 ¶ 4.